



**CITY OF SUNNYVALE
REPORT
Planning Commission**

January 24, 2005

SUBJECT: **2004-0937 – Little Angels** [Applicant] **Cherry Blossom Properties, Inc.** [Owner]: Application for a Use Permit on a 9.8 acre site located at **718 Old San Francisco Road Apartment 146** in an R-3/PD (Medium-Density Residential/Planned Development) Zoning District. (APN: 211-04-002):

Motion **Use Permit** to allow a Large Family Day Care at one unit in an apartment complex (Renaissance Apartments) within 300 feet of an existing large family day care, for up to 14 children;

REPORT IN BRIEF

Existing Site Conditions Multi-family residential apartments with unpermitted large family day care center.

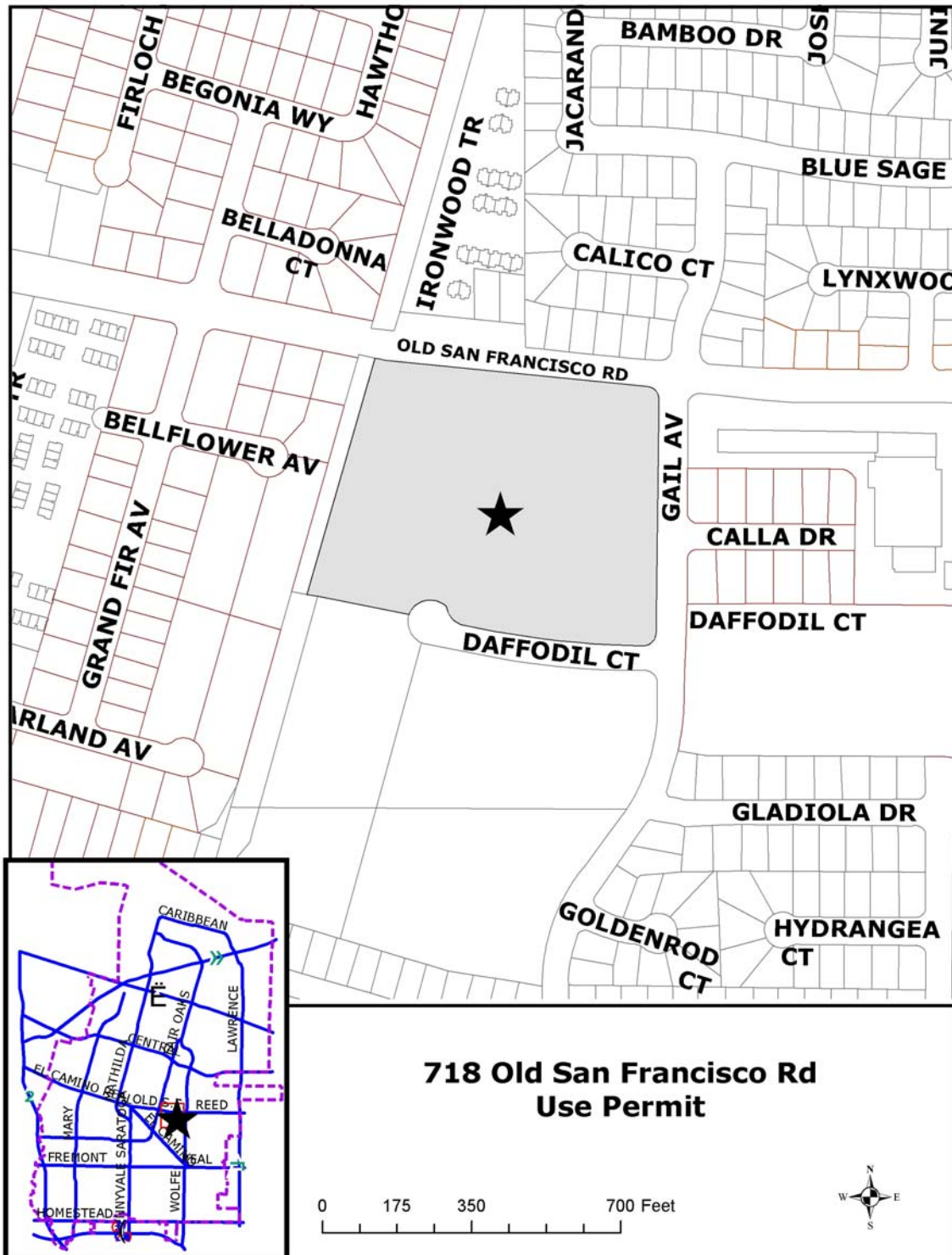
Surrounding Land Uses

North	Single-family residential and two existing large family day care facilities (one permitted and one unpermitted)
South	Braly Elementary School
East	Multi-family residential and the Wolfe-Reed commercial center
West	Multi-family residential

Issues Compatibility of Use with Neighborhood

Environmental Status A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

Staff Recommendation Approve



PROJECT DATA TABLE

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Residential Medium Density	Same	Same
Zoning District	R-3/PD, Medium Density Residential, Planned Development Overlay	Same	Same
Lot Size (s.f.)	9.8 acres	Same	N/A
Gross Floor Area (s.f.)	280,000	Same	N/A
Gross Floor Area of Tenant	1,387	Same	N/A
Parking			
• Total Spaces	492	Same	492 min.

ANALYSIS**Description of Proposed Project**

The applicant has established a large family day care within an existing ground-level three-bedroom apartment at the Renaissance Apartments. There is currently another large family day care home located across the street at 721 Old San Francisco Road. The Code prohibits the establishment of a large family day care home within 300' of a parcel with another similar use (Section 19.58.020) without approval of a Use Permit by the Planning Commission. The applicant is seeking approval of a waiver to this 300' separation.

Background

Previous Actions on the Site: The following table summarizes previous planning applications related to the subject site.

File Number	Brief Description	Hearing/Decision	Date
1998-1098	Add 6 additional carport parking spaces	MPP approved	9/23/1998
1997-0625	Redevelop an existing apartment complex to 268 units	City Council Approved	9/24/1996

Environmental Review

A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 1 Categorical Exemption includes changes in use.

Use Permit

Use: The Use Permit is required in order to grant a waiver to the limits in the placement of a large family day care (LFDC) home within 300' of an existing LFDC home. The applicant has a State license for either 12 children with no more than 4 infants or 14 children when 2 children are at least 6 years of age and with a maximum of 3 infants. The LFDC home is operated by the tenant of the apartment along with one assistant. The hours of operation are from 8:00 a.m to 6:00 p.m. Monday through Friday.

Site Layout: The LFDC use will occur within the home, along with the outside area on the ground floor patio. There is no obvious presence of the LFDC use when the home is viewed from the parking area. Requirements for indoor and outdoor space are governed by the State permit.

Parking/Circulation: The apartment complex consists of 268 units with 492 parking spaces. The subject apartment unit is located close to Gail Avenue.

The LFDC use allows parents to drop off their children anytime throughout the day during the stated business hours. The applicant explains that the customers park on Gail Avenue and walk across the apartment parking lot to the LFDC unit. The specific apartment unit is located more than 500 feet from the existing LFDC center at 721 Old San Francisco Road, and the access is from a different street.

Noise: The potential noise impacts on the surrounding neighborhood caused by having an additional 14 children being cared for on a property located within 300 feet of an existing LFDC is the issue to be reviewed in this staff report. The 300 foot requirement was established partially to protect property owners from the undue concentration of LFDC uses and the noise associated with those uses. Given the distance between the two LFDC centers, staff does not consider this to be a concern.

Public Contact

Notice of Negative Declaration and Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none">• Published in the <i>Sun</i> newspaper• Posted on the site• 561 notices mailed to the property owners and residents within 300 ft. of the project site	<ul style="list-style-type: none">• Posted on the City of Sunnyvale's Website• Provided at the Reference Section of the City of Sunnyvale's Public Library	<ul style="list-style-type: none">• Posted on the City's official notice bulletin board• City of Sunnyvale's Website• Recorded for SunDial

Conclusion**Compliance with Development Standards and Expected Impact on the**

Surroundings: The following section of the Sunnyvale Municipal Code applies to the proposal:

19.58.070.b.1- *The Planning Commission may grant a waiver and associated use permit upon finding that a waiver would not be detrimental or injurious to the property or improvement, or uses in the immediate vicinity.*

The key element to be considered with this Use Permit is the effect of having a LFDC closer than 300 feet to an existing facility. Given this parameter, the proposal is not unreasonable. The actual apartment unit is over 500 feet away from the existing LFDC facility, gains access from a different street and is not visible to each other.

Fiscal Impact

No fiscal impacts other than normal fees and taxes are expected.

Findings, General Plan Goals and Conditions of Approval

Staff was able to make the required Finding based on the justifications for the Permit.

- Findings and General Plan Goals are located in Attachment A.
- Conditions of Approval are located in Attachment B.

Alternatives

1. Approve the Use Permit with attached conditions.
2. Approve the Use Permit with modified conditions.
3. Deny the Use Permit.

Recommendation

Recommend Alternative 1.

Prepared by:

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Project Planner

Reviewed by:

Gerri Caruso
Principal Planner

Reviewed by:

Trudi Ryan
Planning Officer

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Site and Architectural Plans
- D. Letter from the Applicant
- E. State of California License for Large Family Day Care
- F. Photographs
- G. Map of surrounding Large Family Day Care facilities

Recommended Finding - Use Permit

Goals and Policies that relate to this project are:

Land Use and Transportation Sub-Element

N1.4.3 – *Encourage and support home businesses that accommodate changing technologies and lifestyles, while remaining secondary to the nature of the residential neighborhood.*

Housing and Community Revitalization Sub-Element

C.6.a – *Continue to implement the home occupation regulations that allow businesses that do not affect the primary residential character of the neighborhood and that do not involve retail sales, large inventories, hazardous materials, or traffic or parking problems. Such businesses may not be operated in the yard or garage.*

Findings:

- A. The Use complies with the provisions of Title 19 because approval of the waiver to allow a LFDC within 300 feet of an existing LFDC would not create a detrimental or injurious situation to the property or uses in the vicinity because of the distance between facilities and that they each use a different street for access; and
- B. The proposed waiver would not be detrimental or injurious to the property or improvements, or uses within the immediate vicinity. The large family day care facility would not negatively affect the neighborhood because it provides a service to the community, is located over 500 feet from the existing LFDC, and gains access to the facility from a different street than the existing LFDC.

Recommended Conditions of Approval - Use Permit

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

1. GENERAL CONDITIONS

- A. Project shall be in conformance with the plans approved at the public hearing(s). Minor changes may be approved by the Director of Community Development; major changes may be approved at a public hearing.
- B. The Use Permit for the use shall expire if the use is discontinued for a period of one year or more.
- C. The Use Permit shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is received prior to expiration date.
- D. Any expansion or modification of the approved use shall be approved by separate application at a public hearing by the Planning Commission.
- E. The use shall be limited to the hours between 8:00 a.m. and 6:00 p.m. from Monday through Friday.

2. PARKING

- A. All customer parking must take place on Gail Avenue and not on the apartment complex.